IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 8TH MARCH 2007 / 17TH PHALGUNA 1928

MACA.No. 1436 of 2004()

OPMV.797/2001 of MOTOR ACCIDENT CLAIMS TRIBUNAL, OTTAPALAM
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APPELLANT:3RD RESPONDENT

NATIONAL INSURANCE COMPANY LTD.,
THIRUVANANTHAPURAM, NOW REPRESENTED BY ITS
ASSISTANT MANAGER, REGIONAL OFFICE,
AJAY VIHAR, KOCHI-16.

BY ADV. SRI.MATHEWS JACOB (SR.)

RESPONDENTS: PETITIONERS
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1. V.P.MOHAN @ PAVITHRA MOHAN,
S/O.K.V.POONU PANIKKAR, VADAKKE MADOM,
VADAKKUNCHERY, PALAKKAD.

2. V.P.HEMAMBIKA, W/O.MOHAN DO.DO.

3. SUJANA (MINOR), REPRESENTED BY HER
FATHER V.P.MOHAN, DO.DO.

BY ADV. SRI.DILIP J. AKKARA FOR R1 TO R3

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 08/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN & ANTONY DOMINIC, JJ.
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M.A.C.A. NO. 1436 OF 2004
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Dated this the 8th day of March, 2007

J U D G M E N T

P.R.Raman, J.

This is an appeal filed by the Insurance Company against the award in OP(MV) No.797 of 2001 in the file of Motor Accidents Claims Tribunal, Ottapalam. The motor accident occurred on 25/08/2001 where the motor cycle in which the deceased was the pillion rider was hit by a KSRTC bus, which was admittedly insured with the appellant. The parents of the deceased and the only remaining daughter preferred the claim for compensation. The Motor Accidents Claims Tribunal found that the accident occurred due to the negligence of the driver of the KSRTC bus. The notional income was taken as Rs.2,100/- and the dependency was fixed at Rs.1,400/-. 16 was adopted as the multiplier. We find that the deceased was a student studying for B.Com and had got a brilliant academic career. He was only aged 21 at the time of death. The Motor Accidents Claims Tribunal awarded an amount of Rs.2,94,800 compensation along with interest thereon.

2. The appellant would contend that the multiplier adopted is excessive. The respondents were respectively aged 51 and 43 and if so, the proper multiplier to be adopted is 13. It is also contended that being a B.Com student, he had no income as such earned at the time of accident and the notional income taken is also excessive.

3. On the other hand, the respondents would contend that he was not only a student, but he was undergoing apprenticeship training in Canara Bank and getting stipend. Having due regard to his academic background, he is sure to get a better job and had a better future. Considering the future prospects and also considering the fact that the aged parents along with his sister are the dependants, the compensation awarded cannot be said to be in any way excessive.

4. Though it is contended that considering the age of the parents, multiplier 13 is to be adopted, we find that there is a minor sister aged 10, who is also a dependant along with the parents. In such circumstances, we find that 15 will be the proper multiplier adopted. Though the notional income was taken as

Rs.2,100/-, the dependency benefit is fixed at Rs.1,400/-. So we do not find income as such taken for the purpose of calculation of the compensation awardable is in any way excessive. Recalculating the amount awarded by Tribunal adopting 15 as the multiplier, the compensation will be Rs.2,52,000/- as against the loss of dependency Rs.2,68,800/- as awarded by the Tribunal. The compensation awarded under other heads will be sustained. Thus the respondents will be entitled for compensation of Rs.2,78,000/- with interest thereon instead of Rs.2,94,800/- as awarded by the Tribunal.

The award is modified as above.

P.R.RAMAN, JUDGE.

ANTONY DOMINIC, JUDGE.

Rp